

REMARKS

Applicants have cancelled claim 24, without prejudice or disclaimer of its subject matter, and amended claims 22, 23, 28, 32, 41, and 42. Specifically, Applicants have amended claim 22 to incorporate subject matter recited in now-cancelled claim 24. Upon entry of this Amendment, claims 22, 23, and 25-42 remain pending and under current examination.

In the Office Action, the Examiner took the following actions:

- (1) objected to claims 22, 41, and 42; and
- (2) rejected claims 22-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,154,657 (“*Grubeck*”) in view of U.S. Patent No. 6,771,966 (“*Chow*”).

Applicants respectfully traverse the objection and rejection for the following reasons.

Objection to Claims 22, 41 and 42:

The Office Action objected to claim 22 under 37 C.F.R. § 1.75(i) because of alleged informalities. *See* Office Action, page 2. Although Applicants disagree with the Office Action, in an effort to advance prosecution, Applicants have amended claim 22 to separate each step by a line indentation. Accordingly, Applicants respectfully request withdrawal of the objection.

The Office Action again objected to claims 41 and 42 because of alleged informalities. *See* Office Action, page 2. The Office Action states that “[a] cellular communication network ...’ should [be] change[d] to ‘the cellular communication network....’” *Id.* Applicants respectfully traverse this objection. As discussed in the Amendment filed May 15, 2009, Applicants once again point out that Office Action’s suggested amendments to claims 41 and 42 are not necessary and may not be proper. *See* M.P.E.P. §§ 2173.05(e) and 2173.05(f). Particularly, the examples discussed in M.P.E.P. § 2173.05(f) illustrate that the language of claims 41 and 42 is acceptable. Therefore, Applicants respectfully request withdrawal of the objection. Applicants’ undersigned representative invites a telephone call from the Examiner to

discuss this issue, should the Examiner have any further concerns after consideration of M.P.E.P. §§ 2173.05(e) and 2173.05(f).

Rejection of Claims 22-42 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawal of the rejection of claims 22-42 under 35 U.S.C. § 103(a) as being unpatentable over *Grubeck* in view of *Chow*.

The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Office Action has neither properly determined the scope and content of the prior art, nor has the Office action properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has not interpreted the prior art and considered both the invention and the prior art as a whole. *See* M.P.E.P. § 2141(II)(B).

Grubeck and *Chow*, taken either alone or in combination, do not teach or suggest at least Applicants' claimed "step of defining a joint cost function to be optimized, the joint cost function being indicative of a quality of service of location-based services and at least one additional class of services rendered by the network, the at least one additional class of services being selected from a group of voice services and data services," as recited in claim 22 (emphases added). The Office Action, however, incorrectly alleged that *Grubeck* teaches the above-quoted elements at col. 4, lines 8-64. *See* Office Action, page 4.

Grubeck instead discloses a method of determining the location of a mobile station based on Time of Arrival (TOA), Time Difference of Arrival (TDOA), and Angle of Arrival (AOA) measurements. *See Grubeck*, Abstract and col. 1, lines 28-40. In *Grubeck*, a cost-function is defined and minimized under the condition that the requirements of the position estimate are

fulfilled. *See Grubeck*, col. 4, lines 12-24. However, *Grubeck*'s cost-function "determines the 'cost' of performing, measurements in certain ways." *Id.* (emphasis added). That is, *Grubeck*'s cost-function is a measure of system cost for performing the TOA, TDOA, or AOA measurements to determine the location of a mobile station. Such a cost-function cannot constitute "indicat[ion] of a quality of service," as recited in claim 22 (emphasis added). Further, *Grubeck* merely discloses cost-function related to position determination, but fails to teach or suggest Applicants' claimed "joint cost function [] indicative of a quality of service of location-based services and at least one additional class of services rendered by the network," as recited in claim 22 (emphases added).

Chow does not cure the deficiencies of *Grubeck*. For example, *Chow* discloses a method "for planning the deployment of a plurality of receiver/transmitter pairs such that wireless communication links may be established meeting design criteria" *Chow*, Abstract. However, *Chow* does not teach or suggest anything about a "step of defining a joint cost function to be optimized, the joint cost function being indicative of a quality of service of location-based services and at least one additional class of services rendered by the network, the at least one additional class of services being selected from a group of voice services and data services," as recited in claim 22 (emphases added).

Thus, the Office Action has neither properly determined the scope and content of the prior art, nor properly ascertained the differences between the prior art and the claimed invention. Independent claim 22 is not obvious over *Grubeck* and *Chow*, whether taken alone or in combination. Independent claim 22 should therefore be allowable. Dependent claims 23 and 25-42 should also be allowable at least by virtue of their respective dependence from base claim 22, and because they recite additional features not taught or suggested by *Grubeck* and *Chow*. Accordingly, Applicants request the withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the objection and rejection. Pending claims 22, 23, and 25-42 are in condition for allowance, and Applicants request a favorable action.

The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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